

DRAFT MINUTES*
SUNNYVALE CITY COUNCIL
TUESDAY, AUGUST 31, 2010

CALL TO ORDER

Mayor Hamilton called the meeting to order in Council Chambers.

SALUTE TO THE FLAG

Mayor Hamilton led the salute to the flag.

ROLL CALL

PRESENT:

Mayor Melinda Hamilton
Vice Mayor Christopher Moylan
Councilmember Otto Lee
Councilmember Ron Swegles
Councilmember Anthony (Tony) Spitaleri
Councilmember David Whittum
Councilmember Jim Griffith

ABSENT:

None.

STAFF PRESENT:

City Manager Gary Luebbers
Assistant City Manager Robert Walker
Assistant City Attorney Kathryn Berry
Acting Director of Finance Grace Leung
Chief of Public Safety Don Johnson
Director of Public Works Marvin Rose
Director of Community Development Hanson Hom
City Clerk Kathleen Franco Simmons

MOTION TO RECONSIDER A PREVIOUS ACTION: Councilmember Spitaleri moved and Councilmember Swegles seconded the motion to reconsider the issue concerning the De Guigne property [Item 4, RTC 10-208, August 10, 2010], and place it on the next calendar to reconsider the action taken.

VOTE: 4 – 3 (Vice Mayor Moylan, Mayor Hamilton, Councilmember Whittum dissenting)

Any agenda related writings or documents distributed to members of the City of Sunnyvale City Council regarding any open session item on this agenda will be made available for public inspection in the Office of the City Clerk located at 603 All America Way, Sunnyvale, CA. during normal business hours and in the Council Chamber on the evening of the Council Meeting, pursuant to Government Code §54957.5.

PUBLIC ANNOUNCEMENTS

Richard Kolber announced an upcoming meeting of the Democratic Club of Sunnyvale.

PRESENTATION – Census 2010 – Doris Tse presented a plaque to the Mayor for the City of Sunnyvale.

CONSENT CALENDAR

Councilmember Griffith requested to pull Item 1.M from the Consent Calendar.

Councilmember Whittum requested to pull Item 1.F. from the Consent Calendar.

MOTION: Vice Mayor Moylan moved and Councilmember Swegles seconded the motion to approve the Consent Calendar, with the exception of Items 1.F and 1.M.

VOTE: 7 - 0

- 1.A. MOTION Approval of Council Meeting Minutes of August 10, 2010
- 1.B. MOTION Approval of Information/Action Items – Council Directions to Staff

Fiscal Items

- 1.C. MOTION List of Claims and Bills Approved for Payment by the City Manager – List
RTC 10-223 No. 517-519

Staff Recommendation: Review the attached lists of bills.

- 1.D. MOTION Investment and Cash Management Policy Update for Fiscal Year
RTC 10-225 2010/2011

Staff Recommendation: Alternative 1: Adopt the Investment Policy for FY 2010/2011 as presented.

Personnel

- 1.E RESOLUTION Approval of Resolution Delegating Authority to Act on Behalf of the City
RTC 10-219 of Sunnyvale in Matters Relating to California State Association of
Counties Excess Insurance Authority

Staff Recommendation: Alternative 1: Adopt resolution delegating authority to the Risk Manager to act on behalf of the City of Sunnyvale in matters relating to the City and CSAC EIA.

- 1.F. RESOLUTION Amendment to the Salary Resolution to Upgrade NOVA Workforce
RTC 10-231 Services Department Division Manager Classifications; and,
Amendment to the Salary Resolution and Classification Plan to Add the
Newly-Established Classification of Web Publisher

Public Hearing opened at 7:26 p.m.

No speakers.

Public Hearing closed at 7:26 p.m.

MOTION: Vice Mayor Moylan moved and Councilmember Spitaleri seconded the motion to approve Alternative 1: Adopt a resolution to amend the City's Classification Plan and Salary Resolution to upgrade the NOVA Workforce Services Department Division Manager Classifications and add the newly-established classification of the Web Publisher to become effective August 31, 2010.

VOTE: 6 - 1 (Councilmember Whittum dissented)

Contracts

- 1.G. MOTION Authorization to Award Contract Not to Exceed \$270,000 to Green LMI
RTC 10-220 Consulting, Inc. for Study of Silicon Valley Information Technology
Subsectors

Staff Recommendation: Alternative 1: Authorize the award of a contract not to exceed \$270,000 to Green LMI Consulting, Inc. to conduct a labor market study of Silicon Valley information technology subsectors.

- 1.H. MOTION Award of Contract to Provide and Install a Computerized Maintenance
RTC 10-227 Management System for the Department of Public Works (F0912-59)

Staff Recommendation:

1. Award a contract, in substantially the same form as the attached draft and in an amount not-to-exceed \$201,913, to Maintenance Connection, Inc., to provide and install a computerized maintenance management system for the Department of Public Works
2. Approve a project contingency in the amount of \$20,191.

- 1.I. MOTION Award of a Contract for Traffic Signal Preventative Maintenance and
RTC 10-228 Repair Services (F0905-95)

Staff Recommendation: Award a ten (10) month contract, through the end of FY 2010/2011, with option to extend for four additional one year periods, in substantially the same form as the attached draft and in an amount not to exceed \$324,767 to Team Econolite Traffic Engineering and Maintenance Inc., to provide routine traffic signal maintenance and non-routine repair services.

Contracts: Sunnyvale Works!

- 1.J. MOTION Rejection of Bids Received in Response to Sunnyvale Works! Bid No.
RTC 10-226 F0904-90 for Air Flotation Tanks Rehabilitation at the Water Pollution
Control Plant

Staff Recommendation: Reject all six bids received in response to Sunnyvale Works! Bid No. F0904-90.

- 1.K. MOTION Award of Sunnyvale Works! Bid No. F1007-03 for Muender, Coolidge and
RTC 10-229 Washington Avenues Sanitary Sewer Pipe Replacement

* Pending Council Approval

Staff Recommendation:

1. Award a contract, in substantially the same form as the attached draft and in the amount of \$161,360 to Able Septic for the subject project, and authorize the City Manager to execute the contract when all the necessary conditions have been met; and
2. Approve a construction Contingency in the amount of \$24,204.

Other Items

- 1.L. MOTION Approval of Final Map (Tract No. 9962) - Thirty-six Townhomes at 637
RTC 10-216 East Taylor Avenue by D. R. Horton Bay, Inc.

Staff Recommendation: Approve the final map for Tract No. 9962; accept the public street dedication and public utility easement; authorize the Mayor to sign the subdivision agreement upon: developer's signatures, submittal of improvement securities, payment of development fees, and submittal of other documents deemed necessary by the Director of Public Works; direct the City Clerk to sign and forward the final map for recordation

- 1.M. MOTION Process for Appointing Interim Councilmembers
RTC 10-222

Public hearing opened at 7:27 p.m.

No speakers.

Public hearing closed at 7:27 p.m.

MOTION: Councilmember Griffith moved and Councilmember Swegles seconded the motion to approve Alternatives 1 and 4: Approve Council Policy 7.3.15 as submitted and the draft Application/Questionnaire for Candidates for Appointment as Interim Council Member, with a change to the questionnaire to insert a question between questions 5 and 6 as to whether the candidate has previous experience as a City Council member, and if so, how much.

VOTE: 7 - 0

- 1.N. MOTION City of Sunnyvale 2010 Conflict of Interest Code Biennial Notice
RTC 10-221

Staff Recommendation: Alternative 1: Council (as the City's code reviewing body) review and file the Conflict of Interest Code Biennial Notice and direct staff to bring proposed revisions back to Council for approval.

STAFF RESPONSES TO PRIOR PUBLIC COMMENTS

None.

PUBLIC COMMENTS

Andy Frazer spoke regarding the Grand Jury report on unsustainable employee costs.

Glenn Hendricks, Planning Commission member, spoke on his own behalf regarding Paramedic services in Sunnyvale and requested this be placed on an upcoming agenda.

PUBLIC HEARINGS/GENERAL BUSINESS

2. MOTION Response to Grand Jury Report Regarding Sunnyvale City Council
RTC 10-224 Actions Lacking Transparency

Councilmember Lee stated he will recuse himself from discussion of Finding 4 and requested for procedural purposes the discussion on Finding 4 to be held separately.

City Attorney David Kahn provided the staff report.

Public hearing opened at 7:39 p.m.

No speakers.

Public hearing closed at 7:39 p.m.

MOTION: Councilmember Swegles moved and Councilmember Spitaleri seconded the motion to approve Alternative 1: Approve the City's response to the Santa Clara County Civil Grand Jury report, on all findings except Finding 4.

FRIENDLY AMENDMENT: Griffith proposed an amendment to change the response to Finding 3, from "partially disagrees" and "partially agrees" to "fully agrees". Councilmember Swegles accepted the friendly amendment.

FRIENDLY AMENDMENT: Vice Mayor Moylan proposed an amendment to modify the City response to Finding 2, to say that we "Disagree with the finding as written", keep the third paragraph that points out that the Grand Jury made a mistake saying that the Councilmember was appointed at that meeting when in fact the Councilmember was nominated at that meeting, address the Grand Jury's concern that interested members of the public would not reasonably have been able to tell ahead of time that Council was going to nominate one person, and indicate the City has recently taken steps to improve this by encouraging Councilmembers who have an alternative that is not listed in the staff report to state it before the public hearing. Councilmember Swegles accepted the friendly amendment.

VOTE: 6 - 1 (Councilmember Whittum dissented)

Councilmember Lee recused himself from the discussion regarding Finding 4 and left the room.

MOTION: Councilmember Griffith moved and Councilmember Spitaleri seconded the motion to approve the City's response to the Santa Clara County Civil Grand Jury report Finding 4.

VOTE: 6 - 0 (Councilmember Lee recused)

Following action on this item, Councilmember Lee returned to the room and took his seat at the dais.

3. MOTION 2010-7291 - The Ridgecrest Group [Applicant] Omid Shakeri [Owner]:
RTC 10-215 Appeal by a neighbor of a decision by the Planning Commission
 approving Design Review applications for three one-story single-family
 homes (two homes greater than 3,600 square feet which require
 Planning Commission review) and Variances for each home with heights
 that exceed the 17' height that is permitted within a single-story
 combining district on a site located at 574 Bobolink Circle (APN: 309-02-
 034)

Planning Officer Trudi Ryan provided the staff report.

Public hearing opened at 8:09 p.m.

Martin Landzaat, appellant, provided a photo presentation of the condition of the house over the previous two years and stated it has not been kept up to community standards. He stated the proposed houses are not consistent with the scale and character of homes in the adjacent neighborhood. He stated they will be twice the size of existing homes and provided information regarding the pitch of the roof. He stated he would like to see a design where basements are used so the square footage can be achieved and the above ground mass would be reduced. Mr. Landzaat stated the proposed homes are out of character with the neighborhood's ranch-style homes; none have a hipped roof with a flat top, flat, tiled roofing materials, rock or arched window exteriors, or 9.5 foot eave heights. He stated the height variance from 17 feet to 19.5 feet will place these homes on a 2.5 foot pedestal and expressed concerns regarding the slope and need for retaining walls. He stated the current tract hides the elevation differentials along the rear of the lots and the variance will expose the grade differential to the street. Mr. Landzaat provided information regarding the proposed removal of protected trees and responded to questions from Council.

Omid Shakeri, applicant, provided a brief history of the previous approvals and permitting on this project and subsequent delays experienced due to a lack of financial backing, expiration of the design review, and new requirements following a change in the ordinance. Mr. Shakeri requested approval of the variance, and stated the height of the houses from the adjacent grade according to the old ordinance is 16.5 feet, but according to the new requirement, measured from top of curb increases to 19.5 feet. Shakeri provided written materials to Council and stated lowering the grade would require cutting it down about four feet to get to the correct level with top of curb. He stated the proposal is to cut 1.5 to two feet and asking for two to 2.5 feet higher in grade. Mr. Shakeri stated with regard to the size of the houses, the lots are large and the FAR is below what is allowable and a lower percentage FAR per lot size than several neighboring houses. Mr. Shakeri stated with regard to concerns about the removal of the canary palm, the Fire Department requires a minimum fifteen foot clearance and the tree is in the fire lane. Shakeri provided information relating to the removal of the appellant's tree. Mr. Shakeri stated the houses are compatible with the neighborhood: one story, low profile, similar in roof pitch, use of stucco, and was previously approved. Mr. Shakeri responded to questions from Council.

Jack Galante, grading contractor, spoke regarding the proposed plans for lowering the grade for the building pads and the variance that would provide in the event of a flood or a backup. He stated that to take it down the original 4.5 to five feet would cause the loss of all the trees on the property.

Martin Landzaat, appellant, provided a response to comments regarding the removal of his

tree. He stated he would rather have the variance denied and lose the palm tree, although it would be easy to save, move, or sell. He recommended against denying the appeal and responded to questions from Council.

Omid Shakeri, applicant, responded to comments regarding the tree and grading.

Public hearing closed at 8:49 p.m.

MOTION: Councilmember Spitaleri moved and Councilmember Griffith seconded the motion to approve Alternative 2 to deny the appeal and uphold the decision by the Planning Commission to approve the Variances and Design Reviews with the recommended Conditions of Approval located in Attachment B.

VOTE: 7 - 0

4. MOTION Approval of Revised Council Policy 7.2.19, *Boards and Commissions*
RTC 10-217

Assistant City Manager Robert Walker provided the staff report.

Council Subcommittee Chair Griffith presented a report of the Council Subcommittee on Board and Commission Bylaws Amendments.

Public hearing opened at 9:01 p.m.

Bob Obrey, Chair of the Art Commission, conveyed the recommendation of the Art Commission that "to the extent possible, the Arts Commission shall include at least one member with a background in the visual arts and one member with a background in the performing arts" by motion passed 3 – 0 at the July 21st meeting. He stated the commission also recommended that the members of the commission be Sunnyvale residents.

Public hearing closed at 9:03 p.m.

MOTION: Councilmember Lee moved and Councilmember Whittum seconded the motion to approve Alternative 1: Approve the policy revisions as presented.

FRIENDLY AMENDMENT: Vice Mayor Moylan moved a friendly amendment to suggest a topic for the Council Subcommittee's next meeting a request to consider reviewing the six-level appeals process on pages 15 and 16 of Council Policy 7.2.19. Councilmember Lee accepted the friendly amendment.

VOTE: 7 - 0

Mayor Hamilton requested to send to the Council Subcommittee a request to review the possibility of allowing people who are not registered voters to serve on boards and commissions, and to ask the Charter Review Committee to take a look at it.

5. MOTION League of Cities Peninsula Division Election of Officers
RTC 10-230

Assistant City Manager Robert Walker provided the staff report.

Public hearing opened at 9:10 p.m.

No speakers.

Public hearing closed at 9:10 p.m.

MOTION: Councilmember Swegles moved and Councilmember Lee seconded the motion to vote for the following candidates in each officer position for the League of Cities Peninsula Division:

President: Barbara Pierce, Councilmember, Redwood City

Vice President: Steve Tate, Mayor, Morgan Hill

Secretary Treasurer: Rich Garbarino, Councilmember So. S.F.

VOTE: 7 - 0

MOTION: Councilmember Swegles moved and Councilmember Lee seconded the motion to vote for the following candidates in each officer position for the League of Cities Peninsula Division:

At-large (Santa Clara County): Chris Moylan, Vice Mayor, Sunnyvale

At-large (San Mateo County): Art Kiesel, Councilmember, Foster City

VOTE: 7 - 0

COUNCILMEMBER REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS

Mayor Hamilton reported on the recent Fair Oaks Health Center Senior Housing ground breaking event.

NON-AGENDA ITEMS & COMMENTS

Councilmember Swegles provided information regarding recent articles and a YouTube video of the "SOS Singers on Prop 22".

Councilmember Spitaleri responded to comments regarding the paramedic issue raised earlier, and provided information regarding the bid for the county contract, ambulance response times by city rather than zones, and the concern with the previous agreement and possibly this agreement with AMR that San Jose would have a lower pay rate than the rest of the county.

Councilmember Spitaleri provided information regarding a request from Senator Elaine Alquist for a waiver of fees for use of a City facility for the Health Forum.

Councilmember Lee reported he has been participating in a military exercise the past two weeks in South Korea and spoke regarding the milestones reached in Iraq today.

Councilmember Griffith proposed a study issue to look at partial or complete closure of Murphy to vehicular traffic or other reconfiguration options.

Vice Mayor Moylan stated he would co-sponsor the study issue.

INFORMATION ONLY REPORTS/ITEMS

- Tentative Council Meeting Agenda Calendar
- RTC 10-218 Board and Commission Resignation (Information Only)
- Draft Minutes of the Board of Library Trustees Meeting of August 2, 2010
- Draft Minutes of the Bicycle and Pedestrian Advisory Commission Meeting of July 15, 2010
- Draft Minutes of Heritage Preservation Commission Meeting of August 4, 2010
- Draft Minutes of Housing and Human Services Commission Meeting of July 28, 2010
- Draft Minutes of Arts Commission Meeting of August 18, 2010
- Draft Minutes of Parks and Recreation Commission Meeting of August 19, 2010

ADJOURNMENT TO THE REDEVELOPMENT AGENCY

Mayor Hamilton closed the meeting in recognition of and respect for the life and contributions of Marion Mildred Finkenberg.

Mayor Hamilton adjourned to the Redevelopment Agency meeting at 9:26 p.m.
